

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**UNITED STATES OF AMERICA**

**v.**

**JAMES LEWIS**

**Defendant**

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**CRIMINAL NO.: 05-10093-PBS**

**GOVERNMENT'S ASSENTED TO MOTION FOR  
DISCLOSURE AND PROTECTIVE ORDER REGARDING  
INDIVIDUALLY IDENTIFIABLE TAXPAYER INFORMATION**

Pursuant to Title 26, U.S.C. § 6103, Fed. R. Crim. P. 16(d)(1), and Local Rule 112.1, the government respectfully requests that this Court enter an order allowing the government to produce individually identifiable taxpayer information to the defendant, and a protective order to prevent unnecessary disclosure of that information.

As part of the discovery in this action, Internal Revenue Service documents containing information regarding individually identifiable taxpayer information of various taxpayers should be produced to the defendant. That information includes social security numbers, home addresses and information concerning taxpayers' financial and personal situations.

Some of those records could be subject to Title 26, U.S.C. § 6103 ("General rule - Returns and return information shall be confidential, except as authorized by this title.") Under the statute, return and return information may be disclosed in a Federal judicial proceeding to the extent required by order of a court pursuant to Title 18, U.S.C., § 3500 or Rule 16 of the Federal Rules of Criminal Procedure. See Title 26, U.S.C. § 6103(4)(D). The government would like to disclose the entire investigative file to the defendant and give the defendant access to taxpayer documents that government alleges the defendant attempted to destroy. The investigative file consists of reports of interviews that will constitute Jencks Act statements of witnesses the

government intends to call at trial. The documents the defendant allegedly attempted to destroy will be exhibits at trial and thus discoverable under Rule 16. Both the reports and the documents contain taxpayer information. The government requests an order directing the government to comply with Rule 16 and the Jencks Act and produce the material at issue.

However, as a matter of concern for those taxpayers' privacy, the government believes it is appropriate to restrict the unnecessary dissemination of such information, limit access to those individuals necessary for the preparation and defense of this action, guard against any unnecessary identification of such information in the public record, and require that the information be returned or destroyed when it is no longer needed.

For the above reasons, the Government respectfully requests that this motion for a disclosure and protective order regarding individually identifiable taxpayer information be granted.

Michael Liston, counsel for the defendant, assents to this Motion.

A proposed Order is submitted with this Motion.

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ George W. Vien  
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April 21, 2005

Certificate of Service

I hereby certify that I served a copy of the foregoing pleading on Michael Liston, 2 Park

Plaza, Boston, MA 02116, this day by mail, together with the proposed order.

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George W. Vien